IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 463 OF 2007

Subhash Bira Waghmode ..Petitioner

V/S

Krishi Utpanna Bazar Samiti,

Solapur & Ors. ..Respondents

Mr. Kiran Bapat for petitioner.

CORAM : A.P. DESHPANDE, J.

DATE : 19TH JANUARY, 2007.

P.C.

1. Not on board. Mentioned.

2. The petitioner was working as a senior clerk with the Respondent. Petitioner’s date of birth was recorded in the service record when he joined the employment way back in 1976. The petitioner had produced the school leaving certificate to substantiate the date of birth. The date of birth is indicated in the school leaving certificate as 2-8-1948. So while recording the date of birth no one has committed any mistake. It is the case of the petitioner that sometime in the year 1990 he realised that the entry of the date of birth taken

in the school record is wrong and hence he obtained a birth certificate from the Municipal Council and made an application seeking correction of the date of birth. The birth certificate issued by the Municipal Council makes a mention that a boy was born to the parents named in the certificate on 9th February, 1950. Claiming that the recorded date of birth of the petitioner is not correct, he moved an application seeking correction. It is clear that the petitioner has slept over the matter for a long time and just a week before the date of retirement made a complaint before the Industrial Court that the Respondent has committed unnfair labour practice under the MRTU and Pulp Act. The rejection of the complaint by the Industrial Court has given rise to the filing of the writ petition.

2. The Industrial Court has relied on settled position in law that the date of birth recorded in the service record at the time of entry into service cannot be questioned at a belated stage. Learned counsel for the petitioner vehemently

contended that clause 14 of the Service Conditions

regulating the service of the employees of the Respondent does permit, in genuine cases change the date of birth. The general rule laid down in clause 14 is that once the date of birth is entered in the service record should not be permitted to be changed, except in cases where the mistake in recording of the same is committed by some one other than the employee concerned. In the facts of the present case it is not the contention of the petitioner that on account of the mistake committed by some one else the date of birth is incorrectly recorded. If this be so, no fault can be found with the order passed by the Industrial Court.

3. Perused the order. No interference is called for. Writ petition is summarily rejected.

4. At this stage learned counsel for the petitioner makes a request to extend the stay granted by the Industrial Court, by contending that the same expires today. As I have rejected the writ petition holding that there is no merit

in it, prayer for extension of stay is rejected.

(A.P. DESHPANDE, J.)